

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

APPLE INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
MASIMO CORPORATION and SOUND	)	
UNITED, LLC,	)	
	)	
Defendants.	)	
MASIMO CORPORATION,	)	C.A. No. 22-1377-JLH
	)	
Counter-Claimant,	)	
	)	
v.	)	
	)	
APPLE INC.,	)	
	)	
Counter-Defendant.	)	
APPLE, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
MASIMO CORPORATION and SOUND	)	
UNITED, LLC,	)	
	)	
Defendants.	)	
MASIMO CORPORATION and	)	C.A. No. 22-1378-JLH
CERCACOR LABORATORIES, INC.,	)	
	)	
Counter-Claimants,	)	
	)	
v.	)	
	)	
APPLE INC.,	)	
	)	
Counter-Defendant.	)	
	)	

## **ORDER**

These cases were previously assigned to Judge Noreika. On March 3, 2023, she referred them to me (then a Magistrate Judge) for pretrial proceedings. (C.A. No. 22-1377, D.I. 64; C.A. No. 22-1378, D.I. 49.) On February 21, 2023, Apple filed motions in each case to dismiss Defendant Masimo Corporation's counterclaims and to strike certain of its affirmative defenses. (C.A. No. 22-1377, D.I. 54; C.A. No. 22-1378, D.I. 39.) On June 20, 2023, I issued a Report and Recommendation from the bench that recommended denying both of Apple's motions. (C.A. No. 22-1377, D.I. 131; C.A. No. 22-1378, D.I. 124.) Three days later, Masimo filed in each case a First Amended Answer and Counterclaims (C.A. No. 22-1377, D.I. 138; C.A. No. 22-1378, D.I. 132), and the Court accordingly denied Apple's pending motions as moot. (C.A. No. 22-1377, D.I. 139; C.A. No. 22-1378, D.I. 133.) On July 5, 2023, Defendant Sound United, LLC filed in each case its Answer and Counterclaims, asserting the same inequitable conduct defenses and counterclaims as Masimo's pleadings. (C.A. No. 22-1377, D.I. 151; C.A. No. 22-1378, D.I. 146.)

On July 7, 2023, Apple filed "Renewed Motion[s] to Dismiss and Strike" with respect to Masimo's First Amended Answer and Counterclaims. (C.A. No. 22-1377, D.I. 158; C.A. No. 22-1378, D.I. 153.) Then, on July 18, 2023, Apple filed Motions to Dismiss and Strike Sound United's Answer and Counterclaims. (C.A. No. 22-1377, D.I. 184; C.A. No. 22-1378, D.I. 184.) In each motion, Apple incorporated by reference the relevant portions of its prior briefing and requested that the Court resolve the motions by reissuing its prior Report and Recommendation. Masimo and Sound United Agreed. (C.A. No. 22-1377, D.I. 174, 186; C.A. No. 22-1378, D.I. 171, 187.)

Accordingly, on October 24, 2023, I issued a Report and Recommendation that incorporated by reference portions of the June 20, 2023 Transcript announcing the prior Report and Recommendation, and again recommended that Apple's Renewed Motions to Dismiss and

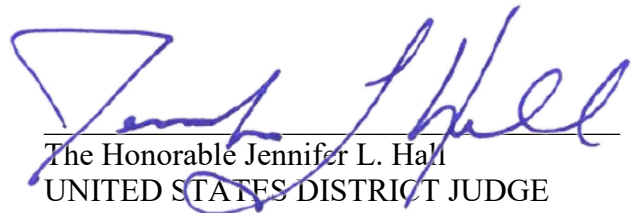
Strike Masimo's counterclaims and defenses (C.A. No. 22-1377, D.I. 158; C.A. No. 22-1378, D.I. 153) and Apple's Motions to Dismiss and Strike Sound United's counterclaims and defenses (C.A. No. 22-1377, D.I. 184; C.A. No. 22-1378, D.I. 184) be denied. (C.A. No. 22-1377, D.I. 377; C.A. No. 22-1378, D.I. 393.) On November 7, 2023, Apple filed objections to the October 24, 2023 Report and Recommendation. (C.A. No. 22-1377, D.I. 392; C.A. No. 22-1378, D.I. 413.)

I became a District Judge on January 4, 2024, and these cases were re-assigned to me on January 9, 2024. The objections remain pending. I asked the parties for their positions on how the Court should resolve the pending objections, and the parties indicated that they "consent to the Court reissuing the Report & Recommendation as an order of the Court and agree that such a conversion would constitute a rejection of the pending objections." (C.A. No. 22-1377, D.I. 440; C.A. No. 22-1378, D.I. 469.)

Accordingly, IT IS HEREBY ORDERED that:

Apple's Renewed Motions to Dismiss and Strike (C.A. No. 22-1377, D.I. 158; C.A. No. 22-1378, D.I. 153) and Motions to Dismiss and Strike Sound United's Answer and Counterclaims (C.A. No. 22-1377, D.I. 184; C.A. No. 22-1378, D.I. 184) are DENIED for the reasons announced from the bench at the June 20, 2023 hearing (C.A. No. 22-1377, D.I. 131; C.A. No. 22-1378, D.I. 124).<sup>1</sup>

January 25, 2024

  
The Honorable Jennifer L. Hall  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> To the extent it is necessary, the Court's March 3, 2023 reference of all pre-trial issues to a Magistrate Judge (C.A. No. 22-1377, D.I. 64; C.A. No. 22-1378, D.I. 49) is WITHDRAWN.